

§ 48.16 Customer dispute resolution.

(a) *Voluntary submission of claims to dispute or settlement procedures.* No national bank may enter into any agreement or understanding with a retail forex customer in which the customer agrees, prior to the time a claim or grievance arises, to submit such claim or grievance to any settlement procedure unless the following conditions are satisfied:

(1) Signing the agreement is not a condition for the customer to use the services offered by the national bank.

(2) If the agreement is contained as a clause or clauses of a broader agreement, the customer separately endorses the clause or clauses.

(3) The agreement advises the retail forex customer that, at such time as the customer notifies the national bank that the customer intends to submit a claim to arbitration, or at such time the national bank notifies the customer of its intent to submit a claim to arbitration, the customer will have the opportunity to choose a person qualified in dispute resolution to conduct the proceeding.

(4) The agreement must acknowledge that the national bank will pay any incremental fees that may be assessed in connection with the dispute resolution, unless it is determined in the proceeding that the retail forex customer has acted in bad faith in initiating the proceeding.

(5) The agreement must include the following language printed in large boldface type:

Two forums exist for the resolution of disputes related to retail forex transactions: civil court litigation and arbitration conducted by a private organization. The opportunity to settle disputes by arbitration may in some cases provide benefits to customers, including the ability to obtain an expeditious and final resolution of disputes without incurring substantial cost. Each customer must individually examine the relative merits of arbitration and consent to this arbitration agreement must be voluntary.

By signing this agreement, you: (1) May be waiving your right to sue in a court of law; and (2) are agreeing to be bound by arbitration of any claims or counterclaims that you or [name of entity] may submit to arbitration under this agreement. In the event a dispute arises, you will be notified if [name of entity] intends to submit the dispute to arbitration.

You need not sign this agreement to open or maintain a retail forex account with [name of entity].

* * * * *

(b) *Election of forum.*

(1) Within 10 business days after receipt of notice from the retail forex customer that the customer intends to submit a claim to arbitration, the national bank must provide the customer with a list of persons qualified in dispute resolution.

(2) The customer must, within 45 days after receipt of such list, notify the national bank of the person selected. The customer's failure to provide such notice must give the national bank the right to select a person from the list.

(c) *Enforceability.* A dispute settlement procedure may require parties using the procedure to agree, under applicable state law, submission agreement, or otherwise, to be bound by an award rendered in the procedure if the agreement to submit the claim or grievance to the procedure complies with paragraph (a) of this section or the agreement to submit the claim or grievance to the procedure was made after the claim or grievance arose. Any award so rendered by the procedure will be enforceable in accordance with applicable law.

(d) *Time limits for submission of claims.* The dispute settlement procedure used by the parties may not include any unreasonably short limitation period foreclosing submission of a customer's claims or grievances or counterclaims.

(e) *Counterclaims.* A procedure for the settlement of a retail forex customer's claims or grievances against a national bank or employee thereof may permit the submission of a counterclaim in the procedure by a person against whom a claim or grievance is brought if the counterclaim:

(1) Arises out of the transaction or occurrence that is the subject of the retail forex customer's claim or grievance; and

(2) Does not require for adjudication the presence of essential witnesses,

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parties, or third persons over which the settlement process lacks jurisdiction.

[76 FR 41384, July 14, 2011, as amended at 76 FR 56097, Sept. 12, 2011]

§ 48.17 Reservation of authority.

The OCC may modify the disclosure, recordkeeping, capital and margin, reporting, business conduct, documentation, or other standards or requirements under this part for a specific retail forex transaction or a class of retail forex transactions if the OCC determines that the modification is consistent with safety and soundness and the protection of retail forex customers.

PARTS 49–99 [RESERVED]

PART 100—RULES APPLICABLE TO SAVINGS ASSOCIATIONS

AUTHORITY: 12 U.S.C. 1462a, 1463, 5412(b)(2)(B), 5414(b)(2).

SOURCE: 76 FR 48956, Aug. 9, 2011, unless otherwise noted.

§ 100.1 Certain regulations superseded.

Effective on July 21, 2011, section 312(b)(2)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (2010)) (12 U.S.C. 5412(b)(2)(B)) transferred rulemaking authority of the Office of Thrift Supervision (OTS) relating to all savings associations, both state and Federal to the OCC. The regulations set forth in parts 100 through 197 of this Chapter I applying to Federal savings associations and state savings associations, as those terms are defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)), supersede corresponding regulations set forth in parts 500 through 591 of Chapter V of the Code of Federal Regulations that were applicable to such entities prior to July 21, 2011.

§ 100.2 Waiver authority.

The Comptroller of the Currency may, for good cause and to the extent permitted by statute, waive the applicability of any provision of parts 100 through 197.

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PARTS 101–107 [RESERVED]

PART 108—REMOVALS, SUSPENSIONS, AND PROHIBITIONS WHERE A CRIME IS CHARGED OR PROVEN

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AUTHORITY: 12 U.S.C. 1464, 1818, 5412(b)(2)(B).

SOURCE: 76 FR 48956, Aug. 9, 2011, unless otherwise noted.

§ 108.1 Scope.

The rules in this part apply to hearings, which are exempt from the adjudicative provisions of the Administrative Procedure Act, afforded to any officer, director, or other person participating in the conduct of the affairs of a Federal savings association, Federal savings association subsidiary, or affiliate service corporation, where such person has been suspended or removed from office or prohibited from further participation in the conduct of the affairs of one of the aforementioned entities by a Notice or Order served by the OCC upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act, (12 U.S.C. 1818(g)).

§ 108.2 Definitions.

As used in this part—

(a) The term *OCC* means the Office of the Comptroller of the Currency.

(b) [Reserved]

(c) The term *Notice* means a Notice of Suspension or Notice of Prohibition issued by the OCC pursuant to section 8(g) of the Federal Deposit Insurance Act.

(d) The term *Order* means an Order of Removal or Order of Prohibition issued